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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,364	04/20/2004	Cyrille Ponet	09231-US	4875

7590 06/07/2005
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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/828,364	Applicant(s) PONET ET AL.	
	Examiner Melody M. Burch	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/04, 2/1/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. Examiner notes that the reference to Japanese Patent Application No. 2002-240700 mentioned in paragraph [0006] is not listed in a separate paper.

2. The information disclosure statement filed 4/20/04 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. Particularly, references DE-3113163 and DE-29920285 have not been considered.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to provide proper antecedent basis for the term "predetermined first braking force" in line 9.

Claim Objections

4. Claim 1 is objected to because of the following informalities: the phrase "the towed vehicle" in line 6 should be changed to --the towed agricultural implement-- and the phrase "said braking application force" in lines 3, 5, and 6 from the bottom should be changed to --said braking application force control system-- in order to maintain consistent claim terminology. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure fails to provide support for the term "predetermined first braking force" recited in lines 9-10. The use of the term "predetermined" suggests the presence of a brake force distribution characteristic from which a first brake force is selected based on certain conditions or some other means of establishing a braking force that is controlled and not random. The originally filed specification fails to provide such disclosure.

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7. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The disclosure does not describe how Applicant achieves the “predetermined” first braking force. One is left to ask if the force is predetermined in the sense that it follows a predetermined curve or in the sense that it is selected from a look-up chart of set braking forces based on certain vehicle operating conditions, etc.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “said braking application force control [system] of said braking system” in lines 6-7 from the bottom is indefinite. The phrase reads as if the braking application force control system is a part of the braking system, however, in the recitations at the beginning of the claim (for example, the limitation of the “braking application force control system coupled between said at least one sensor and said braking system” suggests that the control system and the braking system are two separate and distinct components. Clarification is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art in view of US Patent 4436348 to Farr and 5246276 to Pajonk et al.

The prior art (disclosed above the phrase "the improvement comprising") discloses a towed agricultural implement for operation on-road and off-road and including at least one ground wheel, a braking system having an application device associated with the at least one ground wheel and operative in response to an application force to apply a braking force, which corresponds to the application force, to the at least one ground , and at least one sensor for detecting at least one operating state of the towed agricultural implement for indicating whether or not the implement is being towed on road or off road.

The prior art fails to include the limitation of a braking application force control system coupled between the at least one sensor and the braking system operable between a first condition for effecting a first braking force when the implement is being towed on road and a second condition for effecting a second braking force less than the first braking force when the implement is being towed off road, the at least one sensor being coupled to the braking application force control system of the braking system and being operative for placing the braking application force control system in the first

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condition when the at least one sensor indicates the implement is towed on-road and for placing the braking force application control system in the second condition when the at least one sensor indicates the implement is being towed off-road.

Farr teaches in col. 11 lines 28-36 and in figure 7 the limitation of a braking force control system 16 coupled between an at least one sensor or component including element 4 that detects when the vehicle is traveling over a low friction coefficient surface as disclosed in mentioned in col. 11 lines 28-29 and a braking system 1 operable between a first condition for effecting a first braking force when the implement is moving on-road (or on non-slippery or non-low friction coefficient surfaces), and a second condition for effecting a second braking force less than the first braking force (at a given time due to the reduced rate) when the implement is moving off-road (or on slippery or low friction coefficient surfaces), the at least one sensor being coupled to the braking application force control system of the braking system and being operative for placing the braking application force control system in the first condition when the at least one sensor indicates the implement is moving on-road and for placing the braking force application control system in the second condition when the at least one sensor indicates the implement is being moved off-road. Examiner notes that Applicant describes in lines 1-2 of paragraph [0009] that off-road operating conditions may vary and include "slippery, greasy".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the on-road/off-road operation of the towed agricultural implement of the prior art to have included a braking force control system

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that effects a first braking force on-road and a second braking force less than the first braking force off-road, as taught by Farr, in order to provide a means of helping to ensure optimal braking characteristics and avoid lock-up on slippery or low friction coefficient surfaces.

Prior art, as modified, is silent as to the first braking force being predetermined.

Pajonk et al. teach in col. 3 lines 5-9 the use of a brake operating system including a predetermined first braking force.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the braking arrangement of the prior art, as modified, to have included a predetermined first braking force, as taught by Pajonk et al., in order to provide controlled braking capacity to promote improved vehicle stability depending on particular vehicle applications.

Response to Arguments

12. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6050653 to Wachi et al. teaches the use of a braking system including a wheel speed sensor used to determine whether a vehicle is traveling off-road (slippery or low friction coefficient surface) or on-road.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 4, 2005

Melody M. Burch